

EXHIBIT GG

AO88 (Rev. 12/07) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

District of Nevada

ORACLE USA, INC., et al.,

SUBPOENA IN A CIVIL CASE

V.

SAP AG, a German corp., SAP AMERICA, INC., a
 Delaware corp., TOMORROWNOW, INC., a Texas corp.

Case Number:¹ (MISC)
 07-CV-1658 PJH (EDL) Pending in:
 United States District Court,
 Northern District of California,
 San Francisco Division

TO: SETH RAVIN

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
Fox Rothschild, LLP, Wells Fargo Tower, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, NV 89169 (702)262-6899 by Videotape	3/17/2009 9:30 am

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

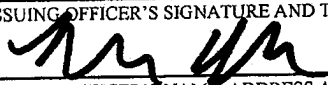
SEE EXHIBIT A, attached.

PLACE	DATE AND TIME
John Hunt, Fox Rothschild, LLP, Wells Fargo Tower, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, NV 89169, (702) 262-6899	2/17/2009 9:30 am

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Associate Attorney (for Plaintiffs)	2/2/2009
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Lucia MacDonald, Bingham McCutchen, LLP, Three Embarcadero Center, Suite 2800, San Francisco, California, 94111. Phone: 415-393-2630. E-mail: lucia.macdonald@bingham.com	

(See Federal Rule of Civil Procedure 45 (e), (d), and (e), on next page)

¹ If action is pending in district other than district of issuance, state district under case number.

AO88 (Rev. 12/07) Subpoena in a Civil Case (Page 2)

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Issued by the

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ORACLE USA, INC., et al.,

Plaintiffs,

v.

SAP AG, a German corporation, SAP
AMERICA, INC., a Delaware corporation,
TOMORROWNOW, INC., a Texas corporation,
and DOES 1-50, inclusive,

Defendants.

CASE NO. 07-CV-1658 PJH (EDL)

Pending in:

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF
CALIFORNIA
SAN FRANCISCO DIVISION

Production Date: February 17, 2009

EXHIBIT A TO SUBPOENA IN A CIVIL CASE

TO: SETH RAVIN, CEO & President of Rimini Street, Inc.

PLEASE TAKE NOTICE THAT Pursuant to Rule 45 of the Federal Rules of Civil Procedure, plaintiffs Oracle USA, Inc., et al., (collectively, "Oracle") request that Seth Ravin produce documents, within this district to: Lucia MacDonald, c/o John Hunt, Fox Rothschild, LLP, Wells Fargo Tower, 3800 Howard Hughes Parkway, Suite 500, Las Vegas, NV 89169, (702) 262-6899 on February 17, 2009, at 9:30 a.m., or at such time and place as may be mutually agreed upon by the parties, the documents and electronic data described herein that are in Your possession, custody, and/or control, and thereby permit Oracle and/or its representatives to inspect copies, or create copies of originals for such inspection.

PLEASE TAKE FURTHER NOTICE that Pursuant to Rule 45 of the Federal Rules of Civil Procedure, plaintiffs Oracle command Seth Ravin to appear for his deposition on Tuesday, March 17, 2009 at the offices of Fox Rothschild LLP, Wells Fargo Tower, 3800 Howard Hughes

1 Pkwy, Suite 500, Las Vegas, Nevada, 89169 (Tel: 702-262-6899), commencing at 9:30 a.m., or
 2 at such time and place as may be mutually agreed upon by the parties. The deposition will be
 3 recorded via videotape, and continue day to day, Sundays and holidays excluded, until
 4 completed.

5 DEFINITIONS

6 Unless otherwise indicated, the following definitions shall apply to each of the below
 7 Requests for Production and Inspection.

8 1. The terms "Seth Ravin," "You," and "Your," mean and include non-party Seth
 9 Ravin; and all current employees, agents, consultants, attorneys, accountants, administrators and
 10 all other persons, organizations, or others acting or purporting to act on Your behalf, under Your
 11 direction, or under Your control, including all temporary employees and independent
 12 contractors.

13 2. The term "Oracle" means and includes plaintiffs Oracle USA, Inc., et al.; all
 14 current and former subsidiaries and affiliates thereof; all divisions, predecessors, successors and
 15 assigns of each of the foregoing.

16 3. The term "PeopleSoft" means and includes PeopleSoft, Inc., all current and
 17 former subsidiaries and affiliates thereof; all divisions, predecessors, successors and assigns of
 18 each of the foregoing.

19 4. The term "SAP" means defendants SAP AG, a German corporation; and SAP
 20 America, Inc., a Delaware corporation; all current and former subsidiaries and affiliates thereof;
 21 and all divisions, predecessors, successors and assigns of each of the foregoing.

22 5. The term "TomorrowNow" means third-party support services provider
 23 TomorrowNow, Inc., a Texas corporation; all current and former subsidiaries and affiliates
 24 thereof; and all divisions, predecessors, successors and assigns of each of the foregoing.

25 6. The term "Document(s)" means and includes, without limitation, written, printed,
 26 typed, recorded, computerized, electronic, taped, graphic or other matter, in whatever form,
 27 whether in final or draft, including, but not limited to, all materials and things that constitute
 28 "writings" or "recordings" within the meaning of Rule 1001 of the Federal Rules of Evidence or

1 Documents within the meaning of Rule 34 of the Federal Rules of Civil Procedure.

2 The term "Document(s)" further includes, but is not limited to, the original and each copy of any
3 writings, including any copy that differs in any respect from the original or other versions of the
4 Document(s), such as, but not limited to, copies containing notations, insertions, corrections,
5 marginal notes, or any other variations; records or files; correspondence; reports; memoranda;
6 calendars; diaries; minutes; electronic messages; voicemail; e-mail; telephone message records
7 or logs; computer and network activity logs; data on hard drives; backup data; data on
8 removable computer storage media such as tapes, disks, and cards; printouts; Document image
9 files; web pages; databases; spreadsheets; software; hardware; books; ledgers; journals; orders;
10 invoices; bills; vouchers; checks; statements; worksheets; summaries; compilations;
11 computations; charts; diagrams; graphic presentations; drawings; films; charts; digital or
12 chemical process photographs; video, phonographic, tape, or digital records or transcripts;
13 drafts; jottings; and notes.

14 7. The term "Documents" further includes all data, information, and Documents sent
15 or received (including cc and bcc) via any of Your internet e-mail accounts, including but not
16 limited to any e-mail accounts with Yahoo! (@yahoo.com), Bell South (@bellsouth.net), Nextel
17 (@nextel.com), Google (@gmail.com), Microsoft (@msn.com), TomorrowNow
18 (@tomorrownow.com), Rimini Street (@riministreet.com), and/or any others.

19 8. The terms "Relate," "Relating," "Related," "Concern," or "Concerning" mean
20 about, constituting, describing, discussing, evidencing, pertaining to, consisting of, referencing,
21 reflecting or having any logical or factual connection with the matter discussed.

22 9. The term "Person" means any natural person, company, corporation, partnership,
23 firm, association, entity, government agency or other organization cognizable at law, and its
24 agents, representatives and employees.

25 10. The term "Communication(s)" means any transmission of information from one
26 Person to another, including without limitation any of the following: (a) any Document,
27 including any e-mail; (b) any telephone call between two or more Persons, whether or not such
28 call was by chance or prearranged, formal or informal; and (c) any conversation or meeting

1 between two or more Persons, whether or not such contact was by chance or prearranged, formal
2 or informal.

3 11. The term "Customer Connection" means any Oracle-maintained support website,
4 including E-Delivery, for PeopleSoft, JD Edwards and Siebel Systems customers and all
5 associated Software And Support Materials, Documents, data, hardware, software, physical
6 server locations, internet protocol addresses, and any other tangible or identifiable things
7 associated with the website, including those available via Change Assistant.

8 12. The term "Download" means any duplication, copying, transfer, or replication, in
9 whole or in part, of any file, Document, data, or other information from an outside source
10 connected through the internet to a computer, server, or network that is part of another Person's
11 computer infrastructure or subject to that Person's control.

12 13. The term "Software And Support Materials" means, without limitation, all
13 programs, program updates, software updates, minor releases, major releases, bug fixes, patches,
14 custom solutions, and instructional materials created or owned by Oracle; or derived from,
15 copied from, or based on any such Oracle materials across the entire family of PeopleSoft, JD
16 Edwards, and/or Siebel Systems branded products.

17 14. The term "Business Model" means any framework for creating economic, social,
18 and/or other forms of value, including a broad range of informal and formal descriptions to
19 represent core aspects of a business, including purpose, offerings, strategies, infrastructure,
20 organizational structures, trading practices, and operational processes and policies; and the
21 method of doing business by which a company can sustain itself and generate revenue.

22 15. The term "Use," with reference to Software And Support Materials, means to
23 study, alter, manipulate, reverse-engineer, distribute, copy or replicate — in whole or in part, or
24 otherwise interact with.

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2 **INSTRUCTIONS**

3 1. With respect to a Document that You contend is privileged, immune or otherwise
4 excludable from discovery, provide: (i) the Document's preparation date and the date appearing
5 on the Document; (ii) the name, present and last known addresses, telephone numbers, titles and
6 positions, and occupations of those Persons who prepared, produced, reproduced, and received
7 said Document, including all authors, senders, recipients, "cc" recipients, and "bcc" recipients;
8 (iii) the number of pages or quantity of data withheld in the Document; and (iv) a description
9 sufficient to identify the Document without revealing the information for which the privilege is
10 claimed, including the general subject matter and character of the Document (*e.g.*, letter,
11 memorandum, notes).

12 2. With respect to a Document that You contend is privileged only in part, produce
13 the responsive non-privileged portion of the Document in redacted form, provided that the
14 redacted material is identified and the basis for the claim of privilege is stated in accordance with
15 Instruction number 1 above.

16 3. If a Document once existed, but has been lost or destroyed, or otherwise is no
17 longer in Your possession, custody, or control, You shall identify the Document and state the
18 details Concerning the loss of such Document, including the name, title, and address of the
19 present custodian of any such Document, if known to You.

20 4. The terms "and" as well as "or" shall be construed disjunctively and conjunctively
21 as necessary in order to bring within the scope of the following Requests all information which
22 might otherwise be construed to be outside their scope.

23 5. The use of the singular form of any word includes the plural and vice versa.

24 6. The term "including" is comprehensive and shall be construed as "including but
25 not limited to," the term "any" shall be construed as "any and all," and the term "each" shall be
26 construed as "each and every."

27 7. Any pronoun shall be construed to refer to the masculine, feminine, or neuter
28 gender as in each case is most inclusive.

1 or final consulting or employment agreements between You and SAP; (ii) Your departure from
2 TomorrowNow, Inc.

3 **REQUEST FOR PRODUCTION NO. 5:**

4 All Documents and Communications Concerning any comparison of third-party software
5 support services offered by TomorrowNow to third-party software support services offered by
6 Rimini Street or any other independent third party provider of technical support for Oracle
7 programs.

8 **REQUEST FOR PRODUCTION NO. 6:**

9 All Documents, manuals, software (including scripts, material Related to Titan, and
10 software information Related to any customers), or any other tools or materials used or possessed
11 by You while employed by TomorrowNow, and PeopleSoft, and taken with You upon Your
12 termination of employment with TomorrowNow, and PeopleSoft; and Communications or
13 Documents Concerning all items in this Request.

14 *TomorrowNow Investment / Acquisition Due Diligence 2007-2008*

15 **REQUEST FOR PRODUCTION NO. 7:**

16 All Documents and Communications, including Your due diligence, Concerning any
17 negotiation, consideration, proposal, plan or offer between SAP and You Relating to SAP's
18 possible, potential, proposed or actual investment in, or acquisition of, TomorrowNow or any
19 subpart or aspect of TomorrowNow.

20 *Oracle Software and Support*

21 **REQUEST FOR PRODUCTION NO. 8:**

22 All Documents and Communications Concerning: (i) TomorrowNow's actual or planned
23 Use of, or Downloading of, Oracle's Software And Support Materials; (ii) any planned or actual
24 delivery or transmission of Software And Support Materials, in whole or in part, from
25 TomorrowNow or any of its employees to SAP or any of SAP's employees; (iii) Oracle's
26 Customer Connection; and (iv) the development of any software programs or software tools
27 presented to, used at, or used by TomorrowNow or SAP to service or support Oracle, PeopleSoft,
28 Siebel Systems, and/or JD Edwards branded software.

1 **REQUEST FOR PRODUCTION NO. 9:**

2 All Documents and Communications Concerning software licenses and source code
3 (including, without limitation, application, tools, and foundation source code) for Oracle,
4 PeopleSoft, Siebel Systems, and/or JD Edwards branded software.

5 *Employees*

6 **REQUEST FOR PRODUCTION NO. 10:**

7 All Documents and Communications Concerning the recruitment or hiring of any Person
8 for employment at Rimini Street who was previously employed or retained (as an employee,
9 independent contractor, or consultant) by TomorrowNow, PeopleSoft, Siebel Systems, JD
10 Edwards, or Oracle.

11 *The Pending Litigation*

12 **REQUEST FOR PRODUCTION NO. 11:**

13 All Documents and Communications Concerning Oracle's lawsuit against SAP (Case No.
14 07-CV-1658 PJH (EDL) pending in the Northern District of California) or any complaint filed by
15 Oracle in the above-captioned litigation, including but not limited to the Third Amended
16 Complaint publicly filed on October 8, 2008.

17 * * * * *

18 **RULE 45 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

19 PLEASE TAKE NOTICE that Rule 45 of the Federal Rules of Civil Procedure provides,
20 in part, as follows:

21 **(c) Protection of Persons Subject to Subpoenas.**

22 (1) A party or an attorney responsible for the issuance and service of a subpoena shall
23 take reasonable steps to avoid imposing undue burden or expense on a person subject to that
24 subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and
25 impose upon the party or attorney in breach of this duty an appropriate sanction, which may
26 include, but is not limited to, lost earnings and a reasonable attorneys' fee.

27 (2)(A) A person commanded to produce and permit inspection, copying, testing, or
28 sampling of designated electronically stored information, books, papers, documents or tangible

1 things, or inspection of premises need not appear in person at the place of production or
2 inspection unless commanded to appear for deposition, hearing or trial.

3 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and
4 permit inspection, copying, testing, or sampling may, within 14 days after service of the
5 subpoena or before the time specified for compliance if such time is less than 14 days after
6 service, serve upon the party or attorney designated in the subpoena written objection to
7 producing any or all of the designated materials or inspection of the premises -- or to producing
8 electronically stored information in the form or forms requested. If objection is made, the party
9 serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect
10 the premises except pursuant to an order of the court by which the subpoena was issued. If
11 objection has been made, the party serving the subpoena may, upon notice to the person
12 commanded to produce, move at any time for an order to compel the production, inspection,
13 copying, testing, or sampling. Such an order to compel shall protect any person who is not a
14 party or an officer of a party from significant expense resulting from the inspection, copying,
15 testing, or sampling commanded.

16 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or
17 modify the subpoena if it

18 (i) fails to allow reasonable time for compliance;

19 (ii) requires a person who is not a party or an officer of a party to travel to a place
20 more than 100 miles from the place where that person resides, is employed or regularly transacts
21 business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such
22 a person may in order to attend trial be commanded to travel from any such place within the state
23 in which the trial is held;

24 (iii) requires disclosure of privileged or other protected matter and no exception or
25 waiver applies; or

26 (iv) subjects a person to undue burden.

27 (B) If a subpoena
28

- 1 (i) requires disclosure of a trade secret or other confidential research,
2 development, or commercial information; or
3 (ii) requires disclosure of an unretained expert's opinion or information not
4 describing specific events or occurrences in dispute and resulting from the expert's study made
5 not at the request of any party; or
6 (iii) requires a person who is not a party or an officer of a party to incur
7 substantial expense to travel more than 100 miles to attend trial, the court may, to protect a
8 person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in
9 whose behalf the subpoena is issued shows a substantial need for the testimony or material that
10 cannot be otherwise met without undue hardship and assures that the person to whom the
11 subpoena is addressed will be reasonably compensated, the court may order appearance or
12 production only upon specified conditions.

13 **(d) Duties in Responding to Subpoena.**

14 (1)(A) A person responding to a subpoena to produce documents shall produce them as
15 they are kept in the usual course of business or shall organize and label them to correspond with
16 the categories in the demand.

17 (B) If a subpoena does not specify the form or forms for producing electronically
18 stored information, a person responding to a subpoena must produce the information in a form or
19 forms in which the person ordinarily maintains it or in a form or forms that are reasonably
20 usable.

21 (C) A person responding to a subpoena need not produce the same electronically
22 stored information in more than one form.

23 (D) A person responding to a subpoena need not provide discovery of electronically
24 stored information from sources that the person identifies as not reasonably accessible because of
25 undue burden or cost. On motion to compel discovery or to quash, the person from whom
26 discovery is sought must show that the information sought is not reasonably accessible because
27 of undue burden or cost. If that showing is made, the court may nonetheless order discovery

28

1 from such sources if the requesting party shows good cause, considering the limitations of Rule
2 26(b)(2)(C). The court may specify conditions for the discovery.

3 (2)(A) When information subject to a subpoena is withheld on a claim that it is privileged
4 or subject to protection as trial-preparation materials, the claim shall be made expressly and shall
5 be supported by a description of the nature of the documents, communications, or things not
6 produced that is sufficient to enable the demanding party to contest the claim.

7 (B) If information is produced in response to a subpoena that is subject to a claim of
8 privilege or of protection as trial-preparation material, the person making the claim may notify
9 any party that received the information of the claim and the basis for it. After being notified, a
10 party must promptly return, sequester, or destroy the specified information and any copies it has
11 and may not use or disclose the information until the claim is resolved. A receiving party may
12 promptly present the information to the court under seal for a determination of the claim. If the
13 receiving party disclosed the information before being notified, it must take reasonable steps to
14 retrieve it. The person who produced the information must preserve the information until the
15 claim is resolved.

16 Dated this 2nd of Feb., 2009, San Francisco, California.

17
18 By 

Lucia MacDonell
BINGHAM MCCUTCHEN LLP
Attorneys for Plaintiffs Oracle USA, Inc.,
et al.

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of Nevada

ORACLE USA, INC., et al.,

Plaintiff

v.

SAP AG, et al.,

Defendant

Civil Action No. Pending in: 07-CV-1658 PJH

(If the action is pending in another district, state where:

Northern District of California

SUBPOENA TO TESTIFY AT A DEPOSITION
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTIONTo: Rimini Street, Inc. c/o Mr. Thomas Shay, Registered Agent for Service of Process
6601 Koll Center Parkway, STE 350, Pleasanton, CA 94566 Tel: (925) 484-9211

☐ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

See Exhibit A, attached.

Place:	Date and Time:
--------	----------------

The deposition will be recorded by this method: _____

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

SEE EXHIBIT A, ATTACHED. Production at the offices of Fox Rothschild LLP, 3800 Howard Hughes Pkwy # 500, Las Vegas, NV 89169, on June 18, 2009 by 4:00 p.m.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/18/2009

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) _____

Plaintiffs Oracle USA, Inc., et al.

, who issues or requests this subpoena, are:

Lucia MacDonald, Bingham McCutchen LLP, Three Embarcadero Center, Suite 2800, San Francisco, California, 94111-4067. Phone: 415-393-2630. E-mail: lucia.macdonald@bingham.com

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action (Page 2)

Civil Action No. Pending In: 07-CV-1658 PJH

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I personally served the subpoena on the individual at *(place)* _____
on *(date)* _____; or

☐ I left the subpoena at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the subpoena on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

☐ I returned the subpoena unexecuted because _____; or

☐ Other *(specify)*: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

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Issued by the
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ORACLE USA, INC., *et al.*,
Plaintiffs,
v.
SAP AG, *et al.*,
Defendants.

CASE NO. (Misc.)
Pending in: 07-CV-1658 PJH (EDL)
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF
CALIFORNIA
SAN FRANCISCO DIVISION

EXHIBIT A TO SUBPOENA TO PRODUCE DOCUMENTS

TO: Rimini Street, Inc.
c/o Mr. Thomas Shay, Registered Agent for Service of Process
6601 Koll Center Parkway
STE 350
Pleasanton, CA 94566 Tel: (925) 484-9211

PLEASE TAKE NOTICE THAT Pursuant to Rule 45 of the Federal Rules of Civil Procedure, plaintiffs Oracle USA, Inc., a Colorado corporation, Oracle International Corporation, a California corporation, Oracle Systems Corporation, a Delaware corporation, Oracle EMEA Limited, an Irish private limited company, and J.D. Edwards Europe Limited, an Irish private limited company (collectively, "Oracle") request Rimini Street, Inc. ("Rimini Street") to produce within its district by mail or other method of recognized delivery directed to the offices of Fox Rothschild LLP, 3800 Howard Hughes Pkwy # 500, Las Vegas, NV 89169 on June 18, 2009 by 4:00 p.m., or at such time and place as may be mutually agreed upon by the parties, the documents, electronic data, and things described herein that are in Rimini Street's possession, custody, and/or control, and thereby permit Oracle and/or its representatives to inspect copies, or create copies of originals for such inspection.

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DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to each of the below Requests for Production and Inspection.

1. The terms "Rimini Street," "You," or "Your," mean and include non-party Rimini Street, Inc. and all of its current and former subsidiaries and affiliates; all divisions, successors, predecessors, and assigns of each of the foregoing; and all current officers, directors, employees, agents, consultants, attorneys, accountants, administrators and all other persons, organizations, or others acting or purporting to act on behalf, or under the control, of each of the foregoing, including all temporary employees and independent contractors.

2. The term "Oracle" means and includes plaintiffs Oracle USA, Inc., et al., their predecessors (including PeopleSoft, Inc. and J.D. Edwards), and their successors, all current and former subsidiaries and affiliates thereof; all divisions and assigns of each of the foregoing.

3. The term "SAP" means, collectively, defendants SAP AG, a German corporation; SAP America, Inc., a Delaware corporation; and third-party software support services provider TomorrowNow, Inc., a Texas corporation; all current and former subsidiaries and affiliates thereof; and all divisions, predecessors, successors and assigns of each of the foregoing.

4. The term "TomorrowNow" means third-party support services provider TomorrowNow, Inc., a Texas corporation; all current and former subsidiaries and affiliates thereof; and all divisions, predecessors, successors and assigns of each of the foregoing.

5. The term "Document(s)" means and includes, without limitation, written, printed, typed, recorded, computerized, electronic, taped, graphic or other matter, in whatever form, whether in final or draft, including, but not limited to, all materials and things that constitute "writings" or "recordings" within the meaning of Rule 1001 of the Federal Rules of Evidence and documents within the meaning of Rule 34 of the Federal Rules of Civil Procedure.

The term "Document(s)" further includes, but is not limited to, the original and each copy of any writings, including any copy that differs in any respect from the original or other versions of the Document(s), such as, but not limited to, copies containing notations, insertions, corrections, marginal notes, or any other variations; records or files; correspondence; reports; memoranda;

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1 calendars; diaries; minutes; electronic messages; voicemail; e-mail; telephone message records
2 or logs; computer and network activity logs; data on hard drives; backup data; data on
3 removable computer storage media such as tapes, disks, and cards; printouts; document image
4 files; web pages; databases; spreadsheets; software; hardware; books; ledgers; journals; orders;
5 invoices; bills; vouchers; checks; statements; worksheets; summaries; compilations;
6 computations; charts; diagrams; graphic presentations; drawings; films; charts; digital or
7 chemical process photographs; video, phonographic, tape, or digital records or transcripts;
8 drafts; jottings; and notes.

9 6. The term "Person" means any natural person, company, corporation, partnership,
10 firm, association, entity, government agency or other organization cognizable at law, and its
11 agents, representatives and employees.

12 7. The term "Communication" means any transmission of information from one
13 Person to another, including without limitation any of the following: (a) any Document,
14 including e-mail; (b) any telephone call between two or more Persons, whether or not such call
15 was by chance or prearranged, formal or informal; and (c) any conversation or meeting between
16 two or more Persons, whether or not such contact was by chance or prearranged, formal or
17 informal.

18 INSTRUCTIONS

19 1. With respect to a Document that You contend is privileged, immune or otherwise
20 excludable from discovery, provide: (i) the Document's preparation date and the date appearing
21 on the Document; (ii) the name, present and last known addresses, telephone numbers, titles and
22 positions, and occupations of those Persons who prepared, produced, reproduced, and received
23 said Document, including all authors, senders, recipients, "cc" recipients, and "bcc" recipients;
24 (iii) the number of pages, or quantity of data withheld in the Document; and (iv) a description
25 sufficient to identify the Document without revealing the information for which the privilege is
26 claimed, including the general subject matter and character of the Document (e.g., letter,
27 memorandum, notes).

28 2. With respect to a Document that You contend is privileged only in part, produce
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1 the responsive non-privileged portion of the Document in redacted form, provided that the
2 redacted material is identified and the basis for the claim of privilege is stated in accordance
3 with Instruction number 1 above.

4 3. If a Document once existed, but has been lost or destroyed, or otherwise is no
5 longer in Your possession, custody, or control, You shall identify the Document and state the
6 details concerning the loss of such Document, including the name, title, and address of the
7 present or last known custodian of any such Document, if known to You.

8 4. The terms "and" as well as "or" shall be construed disjunctively and conjunctively
9 as necessary in order to bring within the scope of the following Requests all information which
10 might otherwise be construed to be outside their scope.

11 5. The use of the singular form of any word includes the plural and vice versa.

12 6. Any pronoun shall be construed to refer to the masculine, feminine, or neuter
13 gender as in each case is most inclusive.

14 7. The term "including" is comprehensive and shall be construed as "including but
15 not limited to," the term "any" shall be construed as "any and all," and the term "each" shall be
16 construed as "each and every."

17 8. Unless otherwise specified, the relevant time period for Your response to these
18 requested Documents shall be from January 1, 2004 to and including the date of Your response.

19 **REQUESTS FOR PRODUCTION**

20 **REQUEST FOR PRODUCTION NO. 1:**

21 Documents sufficient to show Rimini Street's business model, including whether Rimini
22 Street currently relies or ever has relied on copies of customer's licensed Oracle software to
23 provide software support.

24 **REQUEST FOR PRODUCTION NO. 2:**

25 Documents sufficient to show what automated tools Rimini Street has used to download
26 materials from any Oracle customer support website, including protocols applicable to any
27 automated tools.

1 **REQUEST FOR PRODUCTION NO. 3:**

2 All "checklists" or other Documents drafted, revised, or maintained by Beth Lester to
3 track the development, testing, documentation, packaging, or delivery of tax updates, as testified
4 to by Beth Lester in her deposition at pages 76:6-77:1 and 77:18-25, which is excerpted below:

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REDACTED AT REQUEST
OF BETH LESTER

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2 REDACTED AT REQUEST
3 OF BETH LESTER
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7 **RULE 45 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

8 PLEASE TAKE NOTICE that Rule 45 of the Federal Rules of Civil Procedure provides,
9 in part, as follows:

10 **(c) Protection of Persons Subject to Subpoenas.**

11 (1) A party or an attorney responsible for the issuance and service of a subpoena shall
12 take reasonable steps to avoid imposing undue burden or expense on a person subject to that
13 subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and
14 impose upon the party or attorney in breach of this duty an appropriate sanction, which may
15 include, but is not limited to, lost earnings and a reasonable attorneys' fee.

16 (2)(A) A person commanded to produce and permit inspection, copying, testing, or
17 sampling of designated electronically stored information, books, papers, documents or tangible
18 things, or inspection of premises need not appear in person at the place of production or
19 inspection unless commanded to appear for deposition, hearing or trial.

20 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and
21 permit inspection, copying, testing, or sampling may, within 14 days after service of the
22 subpoena or before the time specified for compliance if such time is less than 14 days after
23 service, serve upon the party or attorney designated in the subpoena written objection to
24 producing any or all of the designated materials or inspection of the premises -- or to producing
25 electronically stored information in the form or forms requested. If objection is made, the party
26 serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect
27 the premises except pursuant to an order of the court by which the subpoena was issued. If
28 objection has been made, the party serving the subpoena may, upon notice to the person

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1 commanded to produce, move at any time for an order to compel the production, inspection,
2 copying, testing, or sampling. Such an order to compel shall protect any person who is not a
3 party or an officer of a party from significant expense resulting from the inspection, copying,
4 testing, or sampling commanded.

5 (3)(A) On timely motion, the court by which a subpoena was issued shall quash or
6 modify the subpoena if it

7 (i) fails to allow reasonable time for compliance;

8 (ii) requires a person who is not a party or an officer of a party to travel to a place
9 more than 100 miles from the place where that person resides, is employed or regularly transacts
10 business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such
11 a person may in order to attend trial be commanded to travel from any such place within the state
12 in which the trial is held;

13 (iii) requires disclosure of privileged or other protected matter and no exception or
14 waiver applies; or

15 (iv) subjects a person to undue burden.

16 (B) If a subpoena

17 (i) requires disclosure of a trade secret or other confidential research,
18 development, or commercial information; or

19 (ii) requires disclosure of an unretained expert's opinion or information not
20 describing specific events or occurrences in dispute and resulting from the expert's study made
21 not at the request of any party; or

22 (iii) requires a person who is not a party or an officer of a party to incur
23 substantial expense to travel more than 100 miles to attend trial, the court may, to protect a
24 person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in
25 whose behalf the subpoena is issued shows a substantial need for the testimony or material that
26 cannot be otherwise met without undue hardship and assures that the person to whom the
27 subpoena is addressed will be reasonably compensated, the court may order appearance or
28 production only upon specified conditions.

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1 **(d) Duties in Responding to Subpoena.**

2 (1)(A) A person responding to a subpoena to produce documents shall produce them as
3 they are kept in the usual course of business or shall organize and label them to correspond with
4 the categories in the demand.

5 (B) If a subpoena does not specify the form or forms for producing electronically
6 stored information, a person responding to a subpoena must produce the information in a form or
7 forms in which the person ordinarily maintains it or in a form or forms that are reasonably
8 usable.

9 (C) A person responding to a subpoena need not produce the same electronically
10 stored information in more than one form.

11 (D) A person responding to a subpoena need not provide discovery of electronically
12 stored information from sources that the person identifies as not reasonably accessible because of
13 undue burden or cost. On motion to compel discovery or to quash, the person from whom
14 discovery is sought must show that the information sought is not reasonably accessible because
15 of undue burden or cost. If that showing is made, the court may nonetheless order discovery
16 from such sources if the requesting party shows good cause, considering the limitations of Rule
17 26(b)(2)(C). The court may specify conditions for the discovery.

18 (2)(A) When information subject to a subpoena is withheld on a claim that it is privileged
19 or subject to protection as trial-preparation materials, the claim shall be made expressly and shall
20 be supported by a description of the nature of the documents, communications, or things not
21 produced that is sufficient to enable the demanding party to contest the claim.

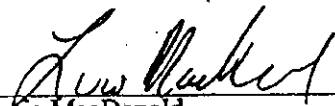
22 (B) If information is produced in response to a subpoena that is subject to a claim of
23 privilege or of protection as trial-preparation material, the person making the claim may notify
24 any party that received the information of the claim and the basis for it. After being notified, a
25 party must promptly return, sequester, or destroy the specified information and any copies it has
26 and may not use or disclose the information until the claim is resolved. A receiving party may
27 promptly present the information to the court under seal for a determination of the claim. If the
28 receiving party disclosed the information before being notified, it must take reasonable steps to

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1 retrieve it. The person who produced the information must preserve the information until the
2 claim is resolved.

3 Dated this 18th of May 2009, San Francisco, California.

4
5 By


Lucia MacDonald

BINGHAM MCCUTCHEN LLP

Attorneys for Plaintiffs Oracle USA, Inc., *et al.*